

Remarks

Claims 1-52 are pending in the application. No amendments have been made.

Objections to the Drawings

The drawings were objected to for failing to include in figures 5-7 reference signs 67, 69, 71, 77, 87, and 89. Applicant submits that in the attached Replacement Sheet, Fig. 5 has been amended to include reference signs 67 and 69 and Fig. 7 has been amended to include reference signs 87 and 89. However, instead of amending Fig. 6 to include reference signs 71 and 77, Fig. 6 has been amended to include reference signs 77 and 79 as described in the specification. Therefore, this rejection to the drawings should be withdrawn.

Fig. 2 of the drawings was objected to by the Examiner for including the reference number "39" for the body component instead of "19" as indicated in the specification. In response, Applicant is submitting herewith a Replacement Sheet for Fig. 2 indicating that the body component is identified by reference sign 19. Therefore, the objection to Fig. 2 should be withdrawn.

Summary of Claim Status in Office Action

In the Office action, the Examiner rejected and objected to some of the claims. In the Office Action Summary, the Examiner rejected claims 1-4, 9-12, 16-34, 37-40, 44, 45, and 48-52 and objected to claims 5-8, 13-15, 26-29, 35-36, 41-43, 46, and 47. In the Office action body, claims 1-4, 9-12, 16-25, 30-31, 32-34, 36-40, 44, 45, and 48-52 were rejected under the judicially created doctrine of obviousness-type double patenting. Claims 5-8, 13-15, 26-29, 35-36, 41-46, and 47 were objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any

intervening claims. It is seen in the Summary that claims 26-29 were both rejected and objected to. Claims 26-29 were also objected to in the Office action body. Therefore, it appears that claims 26-29 should have only been objected to in the Office Action Summary, instead of also rejected as they were objected to twice and rejected once. Claim 36 was rejected and objected to in the body of the Office action. In the Summary of the Office Action, claim 36 was objected to, therefore, it appears that the Examiner intended to object to claim 36 as it was objected to twice. Claims 44 and 45 were rejected in the Office Action Summary and in the body of the Office action, but were also indicated as being allowed in the body of the Office action under the heading Allowable Subject Matter. Thus, it appears that the Examiner intended to reject these claims, as they appeared rejected twice and objected to only once. Accordingly, it appears that claims 1-4, 9-12, 16-25, 30-34, 37-40, 44, 45, and 48-52 were intended to be rejected and claims 5-8, 13-15, 26-29, 35-36, 41-43, 46, and 47 were intended to be objected to in the Office action.

#### Non Statutory Double Patenting Rejection

In the Office action, as stated above, it appears that claims 1-4, 9-12, 16-25, 30-34, 37-40, 44, 45, and 48-52 were intended to be rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 6-9, and 16 of U.S. Patent No. 6,524,329 ("the '329 patent"). Claims 9-12 and 32-34 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of the '329 patent in view of Hart et al. US 2003/0167080. This rejection is respectfully traversed.

In making the rejection, the Examiner states, "[a]lthough the conflicting claims are not identical they are not patentably distinct from each other because the scope of the instant claims are broader...." In response, Applicant

submits that independent claims 1 and 30 of the present invention recite elements not disclosed by the '329 patent, therefore it cannot be said that the instant claims are broader in every respect. Specifically, independent claim 1 recites, "exposing the body component to light from the first light delivery element of the light delivery module, the first element having a first selected range of wavelengths and a second selected range of wavelengths that does not substantially overlap the first range..." and "exposing the body component to light from the second light delivery element of the light delivery module, the second element having a third selected range of wavelengths and a fourth selected range of wavelengths that does not substantially overlap the third range..." The '329 patent does not claim a second wavelength range that does not substantially overlap the first range and a fourth wavelength range that does not substantially overlap the third range. Further, this claimed element is not an obvious variation of any of the cited claims of the '329 patent. Claims 1 and 9 of the '329 patent recite only one pair of wavelength ranges (a first selected range of wavelengths and a second selected range of wavelengths) unlike the current claim 1 which recites four selected wavelength ranges or two pairs of wavelength ranges with no suggestion to include four selected wavelength ranges. None of the other cited claims suggest the elements of claim 1 of the current invention. Further, there is no suggestion in the cited claims of the '329 patent to include two pairs of wavelength ranges that each include a wavelength range that does not substantially overlap the other wavelength range in the pair.

Additionally, claim 1 of the present invention recites, "the module having first and second light delivery elements that can be activated intermittently to illuminate the body component with light having at least two wavelengths..." This claimed element is not an obvious variation of any of the cited claims of the '329 patent. One

module having first and second delivery elements for illuminating with light having at least two wavelengths is not suggested in the any of the cited claims of the '329 patent. In particular, claim 1 of the '329 patent does not recite any type of delivery module and claim 9 of the '329 patent merely recites a light source with no suggestion of the structural elements of the source. Further, none of the other cited claims make such a suggestion. Therefore, for at least all the given reasons, claim 1 is patentably distinct over the cited claims of the '329 patent. Thus, the obviousness type double patenting rejection should be withdrawn. As claims 2-29 depend either directly or indirectly from claim 1, the rejection to these claims should be withdrawn for at least the same reasons as claim 1.

Independent claim 30 recites, "the first light delivery element being arranged to expose the body component to light in a first selected range of wavelengths for a first selected exposure time interval...the second light delivery element being arranged to expose the body to light in a second selected range of wavelengths for a second selected exposure time interval...." The '329 patent does not claim a *first selected wavelength range and a second selected wavelength range* delivered for a first and second exposure time interval. It only claims a *first selected range of wavelengths* delivered for *both* a first and second exposure time interval. Further, the claimed element of a first selected wavelength range and a second selected wavelength range for first and second time intervals is not an obvious variation of the claims of the '329 patent which recite only a single selected range for first and second exposure time intervals. Thus, the cited claims only disclose one selection of a first wavelength range for the first and second exposure time intervals with no suggestion of a selection of a first wavelength range and a selection of a second wavelength range for first and second time intervals.

Claim 30 also recites, "a light delivery module, having at least first and second light delivery elements for generating and focussing light to intermittently illuminate a selected component of a human's body with light having at least two wavelengths..." The claimed invention is not an obvious variation of the invention claimed in the '329 patent. One light delivery module having first and second light delivery elements for illuminating with light having at least two wavelengths is not suggested in the any of the cited claims of the '329 patent. In particular, claim 1 of the '329 patent does not recite any type of delivery module and claim 9 of the '329 patent merely recites a light source with no suggestion of the structural elements of the source. Further, none of the other cited claims make such a suggestion. Therefore, for at least all the given reasons, claim 30 is patentably distinct over the cited claims of the '329 patent. Thus, the obviousness type double patenting rejection should be withdrawn. As claims 31-52 depend either directly or indirectly from claim 30, the rejection to these claims should be withdrawn for at least the same reasons as claim 30.

Further, claim 11 recites that "a light delivery wrap...that comprises a first *modular* component positioned adjacent to a lower portion of a head of the animal and a second *modular* component positioned adjacent to an upper portion of the animals head, wherein the first and second modular components together cover substantially all of the upper portion and the lower portion of said animal's head" (emphasis added). The claimed invention is not an obvious variation of the invention claimed in the '329 patent. A modular wrap, as recited in Applicant's claims, is not suggested in the cited claims of the '329 patent nor the Hart et al. publication. The cited claims of the '329 patent do not recite a wrap and further do not recite or suggest a modular structure of a wrap that includes two components that together cover substantially all of an animal's head, as

claimed in claim 11. In particular, claim 1 of the '329 patent does not recite any type of light delivery mechanism and claim 9 of the '329 patent merely recites a light source with no suggestion of the structure of the source or a structure of the source being modular. Further, none of the other cited claims make such a suggestion. Additionally, the Hart et al. publication fails to render claim 11 obvious for at least the reason that it is not prior art. It has a publication date of September 4, 2003 which is later than the filing date of the present invention, July 30, 2003. Thus, the claimed invention is not an obvious variation of the invention claimed in the '329 patent. Therefore, for at least these reasons, claim is patentably distinct over the cited claims of the '329 patent.

Claim 12 recites "a light delivery wrap covering substantially all of an upper portion and a lower portion of said animal's head and containing, on the light delivery wrap, at least one *aperture for at least one of a group consisting of an eye, a nose, an ear, and a mouth*" (emphasis added). The claimed invention is not an obvious variation of the invention claimed in the '329 patent. The cited claims of the '329 patent do not recite a wrap and further do not recite or suggest a wrap having an aperture for one of the group of an eye, ear, nose, and mouth, as claimed in claim 12. In particular, claim 1 of the '329 patent does not recite any type of light delivery mechanism and claim 9 of the '329 patent merely recites a light source with no suggestion of the structure of the source including an aperture. Further, none of the other cited claims make such a suggestion. Additionally, the Hart et al. publication fails to render the claim obvious for at least the reason that it is not prior art, as explained above. Thus, the claimed invention is not an obvious variation of the invention claimed in the '329 patent. Therefore, for at least these reasons, claim 12 is patentably distinct over the cited claims of the '329 patent.

Claim 16 recites, "providing, as said light delivery module, a light delivery module that fits within a cavity of said animal used for reproduction and illuminates a selected portion of an interior of the cavity of said animal." The claimed invention is not an obvious variation of the invention claimed in the '329 patent. The cited claims of the '329 patent do not recite a light delivery module and further do not recite or suggest a module for illuminating a selected portion of an interior of a reproductive cavity. In particular, claim 1 of the '329 patent does not recite any type of light delivery mechanism and claim 9 of the '329 patent merely recites a light source with no suggestion of the source being configured to illuminate a reproductive cavity. Further, none of the other cited claims make such a suggestion. Further, the Examiner has indicated that claim 42, which recites the element of a module that fits within a cavity used for reproduction and for illuminating the interior of the cavity would be allowable if rewritten in independent form. Therefore, it appears that claim 16, which also includes the element of a light delivery module illuminating the reproductive cavity, should be allowed for at least the same reasons as claim 42. Thus, the claimed invention is not an obvious variation of the cited claims in the '329 patent. Therefore, for at least these reasons, claim 16 is patentably distinct over the cited claims of the '329 patent. Thus, claim 16, and claim 17, which depends from claim 16, are allowable for at least these reasons and are patentably distinct over the cited claims of the '329 patent.

Additionally, claim 17 recites, "deflating or compressing said light delivery module before insertion into said cavity and inflating or decompressing said light delivery module after insertion into said cavity." The Examiner has indicated that claim 41 which recites the elements of deflation and compression would be allowable if rewritten in independent form. Therefore, it appears that claim 17 which

also recites the elements of deflation and compression should be allowed for at least the same reasons as claim 41.

Claim 18 recites, "providing, as said light delivery module, a light delivery module that attaches to a selected portion of skin of said animal and provides illumination that induces a medical healing process..." Similarly, claim 33 recites, "an attachment mechanism that attaches at least one light delivery element to a selected region of skin of said animal" and claim 44 recites, "said light delivery module attaches to a selected portion of skin of said animal and provides illumination that induces a medical healing process in a vicinity of the selected portion of the skin." The claimed invention is not an obvious variation of the invention claimed in the '329 patent. The cited claims of the '329 patent do not recite or suggest a light delivery module that attaches to skin or an attachment mechanism. In particular, claim 1 of the '329 patent does not recite any type of light delivery mechanism and claim 9 of the '329 patent merely recites a light source with no suggestion of the source being configured to attach to skin. Further, none of the other cited claims make such a suggestion. Additionally, the Hart et al. publication fails to render the claim obvious for at least the reason that it is not prior art, as explained above. Additionally, the Examiner has indicated that claims 5 and 35, which recite the element of an attachment mechanism, would be allowable if rewritten in independent form. Therefore, it appears that claims 18, 33, and 44 which also include the element of an attachment mechanism should be allowed for at least the same reasons as claims 5 and 35. Thus, claim 18, and claims 19 and 20, which depend from claim 18, claim 33, and claim 34, which depends from claim 33, and claim 44, and claim 45, which depends from claim 44 are allowable for at least these reasons and are patentably distinct over the cited claims of the '329 patent.



Claim 21 recites, "exposing said selected body component to substantially no light within said first and second selected wavelength ranges and to substantially no light within said third and fourth selected wavelength ranges, during said dark time interval." Claim 22 recites, "choosing at least one of said first wavelength range, said second wavelength range, said third wavelength range, and said fourth wavelength range to be contained in an overall wavelength range" greater than or equal to 350 nm and less than or equal to 1500 nm. The Examiner indicated that claim 46 which recites the same elements as claim 21 and claim 47 which recites the same elements as claim 22 would be allowable if rewritten in independent form. Therefore, Applicant submits that the claimed invention is not an obvious variation of the invention claimed in the '329 patent and that claims 21 and 22 should be allowable for at least the same reasons as claims 46 and 47.

Claim 39 recites, "a light delivery module that fits within said animal's mouth and illuminates a selected portion of an interior of said animal's mouth." The claimed invention is not an obvious variation of the invention claimed in the '329 patent. The cited claims of the '329 patent do not recite or suggest a light delivery module that fits within and illuminates an interior of a mouth. In particular, claim 1 of the '329 patent does not recite any type of light delivery mechanism and claim 9 of the '329 patent merely recites a light source with no suggestion of the source being configured to fit within and illuminate the interior of a mouth. Further, none of the other cited claims make such a suggestion. Additionally, the Examiner has indicated that claim 13 which recites providing a module that fits within an animal's mouth and that illuminates a selected portion of an animal's mouth would be allowable if rewritten in independent form. Therefore, it appears that claim 39 which also includes the element of a delivery module fitting within and

illuminating a mouth should be allowed for at least the same reasons as claim 13. Thus, claim 39, and claims 40 and 41, which depend from claim 39, are allowable for at least these reasons and are patentably distinct over the claims of the '329 patent.

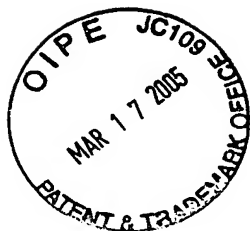
Claim 49 recites, "an electromagnetic field source that provides said body component with a low frequency (LF) electromagnetic field..." in a particular range. The claimed invention is not an obvious variation of the invention claimed in the '329 patent. The cited claims of the '329 patent do not recite or suggest an electromagnetic field source providing the body with a low frequency electromagnetic field. None of the claims of the '329 patent recite or suggest use of an electromagnetic field or an electromagnetic field in the claimed range. Also, the Examiner has indicated that claim 26, which recites a low-frequency electromagnetic field in the same frequency range as claim 49, would be allowable if rewritten in independent form. Therefore, it appears that claim 49 which also includes the element of a low frequency magnetic field should be allowed for at least the same reasons as claim 26. Thus, claim 49, and claim 50, which depends from claim 49 are allowable for at least these reasons and are patentably distinct over the claims of the '329 patent.

Claim 51 recites, "a magnetic field source that provides said body component with a magnetic field, oriented in a selected direction and having an intensity B..." in a particular range and claim 52 recites "a magnetic field source that provides said body component with a low frequency magnetic field, oriented in a selected direction and having at least one frequency f..." in a particular range. The claimed invention is not an obvious variation of the invention claimed in the '329 patent. The cited claims of the '329 patent do not recite or suggest a magnetic field source providing the body with a magnetic field in a particular intensity range or with a low frequency electromagnetic field in a particular

frequency range. None of the claims of the '329 patent recite or suggest use of an electromagnetic field or an electromagnetic field in the claimed range of intensity or frequency or in any range for that matter. Also, the Examiner has indicated that claim 28, which recites the element of a magnetic field having an intensity in a particular range, and claim 29 which recites the element of a low frequency electromagnetic field having a frequency in a particular range would be allowable if rewritten in independent form. Therefore, it appears that claim 51 which includes the same elements as claim 28 and claim 52 which includes the same elements as claim 29 should be allowed for at least the same reasons as claims 28 and 29. Thus, claim 51 and claim 52 are allowable for at least these reasons and are patentably distinct over the claims of the '329 patent.

#### Allowable Subject Matter

As stated above, it appears that claims 5-8, 13-15, 26-29, 35-36, 41-43, 46, and 47 were intended to be objected to in the Office action and that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant submits that as independent claims 1 and 30 are allowable, the dependent claims 5-8, 13-15, 26-29, 35-36, 41-43, 46, and 47 which depend either directly or indirectly from claim 1 or claim 30 are allowable for at least the same reasons as their respective independent claim.



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Conclusion

For at least the reasons submitted above, Applicant submits that the claims are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested.

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Date: March 15, 2005

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